

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5247 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

REVABHAI JOITABHAI

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

MR GM AMIN for Petitioners

MR KG SHETH, AGP for Respondent No. 1 & 2

Rule served to Respondent No.1.

CORAM : MR.JUSTICE M.H.KADRI

and

MR.JUSTICE C.K.BUCH

Date of decision: 04/04/2000

ORAL JUDGEMENT (PER: M.H.KADRI, J)

The petitioners, by filing this petition under Articles 14, 19 & 226 of the Constitution of India, have prayed to issue appropriate writ, order or direction calling upon the respondents to initiate land acquisition proceedings under the Land Acquisition Act, 1894 (to be referred to as the "Act" for short) and to declare award with respect to the petitioners' land bearing survey nos. 632/4, 635/1, 635/2, 635/3, 632/2, 123, 124, 632/5, 632/3 and Gamthal survey No.14 situated in the sim of village Halisa, Taluka Dahegam, District Ahmedabad.

The petitioners are residents of village Halisa, Ta:Dahegam, District : Ahmedabad and they own agricultural lands referred to above. According to the petitioners, above lands were acquired by respondent no.1 for laying road from Dahegam to Chhala and possession of the lands was handed over to the Executive Engineer, Road & Building, Ahmedabad District Panchayat before many years and road is already constructed on the said lands. As per the say of the petitioners, other lands were acquired for the said public purpose by issuance of notification under sec.4(1) of the Act on 14th August, 1980 which was followed by the declaration made under sec.6 of the Act on 16th July, 1981 and the Land Acquisition Officer has declared award on 8th April, 1984 and amount of compensation was also offered to other farmers, but unfortunately, the petitioners were left out and they were not paid any amount of compensation for their acquired lands. According to the petitioners, even though their lands were acquired, said lands were not notified in the notification issued under sec.4(1) of the Act and the petitioners were also not paid any amount of compensation by the Land Acq. Officer by his award dated 8th April, 1984.

The petitioners had written letter to the Deputy Executive Engineer, R & B on 18th March, 1981 pointing out that even though their lands were acquired, they were not paid compensation. The petitioners have also addressed letter dated 16th July, 1981 to the 3rd Land Acquisition Officer pointing out that even though their lands were acquired, no compensation was paid to them. The petitioners, on 30th June, 1990 had sent notice to respondent no.1 - District Development Officer, District Panchayat, Ahmedabad calling upon him to make payment of the amount of compensation for their acquired lands. It is averred by the petitioners that Govt. of Gujarat had issued a circular dated 20th January, 1986 which specifically provides that if notification under sec.4(1) of the Act is not issued and possession is taken of the lands in anticipation of land acquisition proceedings, then in that case, 75% of the amount of compensation should be paid to the concerned party and acquisition

proceedings of the lands should immediately be started and the same should be completed within six months. As the request of the petitioners was not acceded to by the respondents, the petitioners were compelled to file this petition for the reliefs as stated in earlier paragraph.

When the petition was placed for admission hearing before this Court (Coram : R.C.Mankad & C.K. Thakkar, JJ) on 20th July, 1990, notice to the respondents was issued making it returnable on 17th August, 1990. As the respondents did not file affidavit-in-reply, Rule was issued in this petition on 18th September, 1990 making it returnable on 8th October, 1990. Respondents are duly served and they are represented by the learned advocate. No affidavit-in-reply is filed controverting averments made in the petition. The matter was adjourned time and again to enable the respondents to file affidavit-in-reply.

In view of these facts and circumstances, this Court is left with no other alternative but to allow this petition. Prayer made by the petitioners in para-19(B) of the petition is granted and a writ of mandamus is issued directing the respondents to initiate land acquisition proceedings under the Act as prayed for and to complete the same within six months. Rule is made absolute accordingly with no order as to costs.

4.4.2000 [M.H. KADRI, J]

[C.K. BUCH, J]

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